

**Audit Report
California District Attorneys
Association (CDAA)
Wildland Fire Investigation
Training and Equipment Fund**



**Prepared by:
CAL FIRE Office of Program Accountability
November 2009**

In 2008, the CAL FIRE Office of Program Accountability was asked by CAL FIRE's Law Enforcement Program and Legal Office to perform an audit of the Wildland Fire Investigation Training and Equipment Fund, which was established with a portion of civil cost recoveries and is administered by the California District Attorneys Association (CDAA) through a bank account with Westamerica Bank. The fund is used to promote and improve the training and equipping of CAL FIRE's wildland fire investigators.

The purpose of this audit was to determine whether the fund was established appropriately, to establish a clear understanding of the agreement between CAL FIRE and CDAA, and to ensure the integrity and accountability of the fund.

While there is no question that the Wildland Fire Investigation Training and Equipment Fund provides a significant benefit to CAL FIRE, we believe that improvements should be made to the way this fund is administered. These improvements will help to strengthen internal controls and improve oversight of the fund.

We thank the State Fire Marshal, the Law Enforcement Program, the Legal Office, and both the Northern and Southern Regions for their assistance with this review. The information received from all of the individuals involved helped us to identify needed process improvements in the use of this fund.

This report presents the results of our review.

STAFF:

Anthony Favro, Chief, Office of Program Accountability
George Alves, Auditor
Anh Tran-Neal, Auditor

Table of Contents

Preface	i
Table of Contents	ii
Auditor's Report	1
Findings and Recommendations	2
Finding #1 – Civil Cost Recovery Reporting Procedures Need Strengthening	2
Finding #2 – Memorandum of Agreement Needs Strengthening	4
Finding #3 – Program Procedures Need Further Development	10
Finding #4 – State Purchasing Guidelines Not Followed	12
Finding #5 – Travel Expense Claims Not Properly Completed	15
Finding #6 – State Was Overcharged For Lodging	17
Finding #7 – Training Records Not Properly Maintained	19
Finding #8 – Out-of-State Travel Not Approved	21
Discussion Item #1 – Consider Assigning Wildland Fire Investigation Training and Equipment Fund to Both Regions ..	23

Auditor's Report

Del Walters, Director
Department of Forestry and Fire Protection
1416 Ninth Street, Suite 1505
Sacramento, California 95814

In March 2009, the Office of Program Accountability (OPA) completed its review of the Wildland Fire Investigation Training and Equipment Fund, which is administered by the California District Attorneys Association (CDAA) and used by the California Department of Forestry and Fire Protection (CAL FIRE). Our review was conducted in accordance with *The International Professional Practice Framework (IFFP)* published by the Institute of Internal Auditors. The review included the audit tests we considered necessary to determine that administrative controls are in place and operative.

CAL FIRE management is responsible for establishing and maintaining adequate internal control. This responsibility, in accordance with Government Code, Sections 13404 et seq., includes documenting internal control, communicating requirements to employees, and assuring that internal control is functioning as prescribed. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures.

OPA's review of the Wildland Fire Investigation Training and Equipment Fund revealed it to be of considerable value to the Department and its fire investigation and cost collection efforts. It was apparent throughout our review that CAL FIRE investigators have benefited, and continue to benefit, from the training opportunities afforded by the Fund.

Our review did not reveal any significant internal control problems or weaknesses that would be considered pervasive in their effects on the administrative controls over the Fund. However, we believe that improvements should be made to the way the Fund is administered. These improvements, which are included in the *Findings and Recommendations* section of the report, will help to strengthen internal controls and improve oversight of the Fund.

This report is intended for the information and use of CAL FIRE management, and is not intended to be used by anyone other than the designated parties.

Anthony P. Favro

Anthony P. Favro, Chief
Office of Program Accountability

November 19, 2009

Findings and Recommendations

Finding #1 – Civil Cost Recovery Reporting Procedures Needs Strengthening

Condition:

CAL FIRE has the ability to file civil actions against individuals or corporations that have violated the Forest Practices Act or that have caused fires either through negligence or violation of law. It is the policy of the Department to actively and aggressively pursue those cases where civil penalty or fire suppression cost recovery will enhance the resource management or fire prevention mission of the Department.

At the request of the CAL FIRE Law Enforcement Program, the California District Attorneys Association (CDAA) has established and administers the Wildland Fire Investigation Training and Equipment Fund (Fund) with a portion of civil cost recoveries. CAL FIRE uses the Fund to promote and improve the training and equipping of its wildland fire investigators. Only when a settlement or court order results in greater than 75% of the amount of suppression costs as stated in the “Letter of Demand” may funds be deposited to the Fund. The amount deposited shall be no greater than the difference between the final settled amount and 75% of the “Letter of Demand” amount. Law Enforcement stipulates as part of the settlement that two checks are issued, one to CAL FIRE and one to CDAA.

CDAA provides a worksheet to CAL FIRE of the Fund’s deposits, disbursements, and administrative fees.

Criteria:

Generally Accepted Accounting Principles (GAAP) is the standard framework of guidelines for financial accounting used in the United States of America. GAAP, as defined by the professional accounting industry, has been adopted by nearly all publicly traded U.S. companies. These guidelines describe the standards, conventions, and rules accountants follow in recording and summarizing transactions, and in the preparation of financial statements.

CAL FIRE Law Enforcement Handbook section 9428 states that each Unit Chief is responsible for determining those incidents or fires where civil penalty or fire suppression cost recovery is appropriate.

CAL FIRE Law Enforcement Handbook Section 9428.1.2 states that negotiated settlements are not final until approved by the appropriate authority for settlement of claims within the following limits: region limit not to exceed \$500,000, and unit limit not to exceed \$50,000. Section 9429.3.4 further states that limits above \$500,000 are the responsibility of the Deputy Chief of Law Enforcement or his/her designee.

Cause:

Civil cost recoveries payable to CDAA as part of the Fund are not reported to the CAL FIRE Departmental Accounting Office or the Law Enforcement Program, and they do not become part of the State's accounting system. Rather, they are retained by the administrative unit initiating the case with a copy to region office. There is no process to report recoveries from the unit and region levels to the Law Enforcement Program in Sacramento. The exception would be if Law Enforcement initiates a case and retains a copy of the judgment. Only when a Fund worksheet is received from CDAA are deposits noted by CAL FIRE.

Effect:

There is no reconciliation taking place to ensure that expected recoveries are placed into the Fund. For example, if units and regions provide copies of judgments to Law Enforcement, those amounts can be traced to the CDAA Fund statement. This would allow CAL FIRE to reconcile expected revenue to actual deposits and to notice any recoveries that were not included on the CDAA Fund statement. Currently, the handbook does not reflect procedures for either reporting judgments to Law Enforcement or for the reconciliation of revenue by Law Enforcement.

Recommendations:

CAL FIRE procedures for reporting civil cost recoveries should be strengthened as follows:

- Handbooks should be revised to require the reporting of civil cost recoveries from units and regions to Law Enforcement, this would provide a central repository for all civil cost recovery information; currently the information is retained at the region level.
- Law Enforcement should reconcile judgment recoveries to deposits in the Wildland Fire Investigation Training and Equipment Fund; this ensures all judgment recoveries are recorded by CDAA.
- CDAA should report financial information to CAL FIRE in accordance with GAAP.

Law Enforcement Program Response:

Law Enforcement agrees and is in the process of implementing the recommendations.

Finding #2 – Memorandum of Agreement Needs Strengthening

Condition:

On May 4, 2005, CAL FIRE entered into a Memorandum of Agreement (Agreement) with CDAA to administer the Fund. The purpose of the Fund is to promote and improve the training and equipping of CAL FIRE's wildland fire investigators.

- The document used to identify and approve a Fund project is titled "Fire Investigation Trust Fund Project Proposal" (FIF 10). The title indicates the Fund is a trust fund. However, OPA obtained a copy of the bank statement and determined that the account is not vested as a trust fund. The Agreement establishes the Fund with settlement monies; however, the section does not indicate that the Fund should be established as a trust fund account.

The Agreement states that project funds shall not be deemed State moneys within the meaning of California Government Code section 16305.2. Law Enforcement personnel stated that this section was added to ensure that project funds do not revert to the general fund.

- The Agreement establishes a committee to approve projects; however, the section does not state how project approval should be documented. Evidence should be maintained that documents that every committee member was given an opportunity to review, comment, and vote on the proposal. Minutes of the committee meeting should be maintained, and project approvals should be documented in the minutes with each member's vote notated. This would provide project approval documentation should any question arise at a later date.
- The formula used to calculate the amount to be deposited to the Fund is not included in the Agreement. To include the calculation would ensure the fair and consistent calculation of civil cost recovery amounts to be deposited to the Fund.
- An audit provision has not been incorporated in the Agreement. This would ensure that CAL FIRE can access source documents, supporting documentation, and transaction history of the Fund account when needed. Since the bank account was opened in CDAA's name, and CAL FIRE is not listed on the account, CAL FIRE would not have access to account information even though it provided the funds.

Criteria:

Section III.7 of the Agreement establishes the fund with settlement monies; however the section does not state the fund should be established as a trust account. Since CAL FIRE document FIF 10 is titled "Fire Investigation Trust Fund Project Proposal," monies deposited to the fund should be placed in a trust account. A savings account trust is where the funds are held by one party, a trustee, in this case CDAA, for the benefit of

another, a beneficiary, in this case CAL FIRE. When an account is a trust account, the trustee can only expend funds for the benefit of the beneficiary. When an account is a regular savings account, CDAA can expend funds on whatever it likes, whether it benefits CAL FIRE or not. If the Fund was kept in a trust account, the monies could not be commingled with other funds that CDAA administers.

California Government Code Section 16305.2 states that all money in the possession of or collected by any state agency or department is hereafter referred to as state money. California Government Code Section 16305.3 further states that all state money shall be deposited in trust in the custody of the Treasurer, except when otherwise authorized by the Director of Finance. SAM Section 8002 states that requests for approval of bank, savings and loan association, or credit union accounts to be maintained outside the CTS will be sent to DOF, FSCU.

Section III.9 of the Agreement states that project funds shall not be deemed State moneys within the meaning of California Government Code section 16305.2. Law Enforcement personnel and Chief Counsel stated that this section was added to ensure that project funds do not revert to the general fund. It is not clear what authority CAL FIRE has to separate the Fund money from State money. This section of the Agreement does not include a sentence that states State purchasing guidelines shall be followed to clarify that CAL FIRE is not attempting to circumvent state purchasing guidelines.

Section VII.27 of the Agreement establishes the committee to approve projects; however the section does not state how project approval should be documented. Minutes of the committee meeting are not maintained so that project approvals are documented in the minutes with each member's vote notated. This would provide project approval documentation should any question arise at a later date.

Law Enforcement provided the following calculation formula to determine the amount to be deposited to the Fund: Only when a settlement or court order results in greater than 75% of the amount of suppression costs as stated in the "Letter of Demand," may funds be deposited to the CDAA Wildland Fire Investigation Training and Equipment Fund. The amount deposited shall be no greater than the difference between the final settled amount and 75% of the "Letter of Demand" amount.

Contracts Handbook section 2552 states that an MOU is a joint statement of purpose, duties, and responsibilities of parties signing the memo. An MOU does not provide for an exchange of funds or other consideration, but may involve cost to the signer(s). It is used, generally, when two agencies are involved in a single project, and the functions of each are separate but coordinated. An MOU is also used to spell out specific understandings between an employer and labor groups. An MOU should be processed in the same manner as other contracts.

Cause:

The Fund bank account was not opened as a trust fund as the Project Proposal implies; Law Enforcement wants flexibility with state purchasing guidelines; Committee meetings are informal and minutes are not maintained; the calculation formula is established but it has not been included in the Agreement; and CDAA allows CAL FIRE to review account documents without an audit provision.

Effect:

If the Fund is not a trust account, CDAA can expend funds however it likes and commingle CAL FIRE's collections with other funds that CDAA may administer.

If state purchasing guidelines are not followed, the Department risks the chance of losing its delegated purchasing authority granted by the Department of General Services.

If Committee minutes are not maintained, there is no documented proof that every committee member was provided the Project Proposal for review, comment, and vote if questions were to arise at a later date.

If the calculation formula is not documented, the amount deposited into the fund may be calculated differently by different people at different times.

Without an audit provision, CAL FIRE could be denied access to account information if relations were to become strained between CAL FIRE and the administrator.

Recommendations:

CAL FIRE should strengthen Agreement language to address the issues outlined in this finding as follows:

- Either funds should be maintained in a trust account as the Project Proposal implies, and Section III.7 of the Agreement should indicate that funds are to be placed in a trust fund, or the Project Proposal (FIF 10) should be revised so a trust fund account is not implied.
- The authority to keep Fund money separate from State money should be documented. To clarify that CAL FIRE is not attempting to circumvent state purchasing guidelines, a reference should be added to Section III.9 of the Agreement stating that State purchasing guidelines shall be followed.
- Project approval documentation should be maintained through Committee minutes with each member's comments and vote notated. This would provide

project approval documentation should any question arise at a later date. The Agreement should reflect this change.

- The formula used to calculate the amount to be deposited in the Fund should also be included in the Agreement to ensure fair and consistent calculation of civil cost recovery amounts to be deposited to the Fund.
- An audit provision should be added to the Agreement. A simple sentence stating that CDAA will maintain accounting books and records under a system of accounts and financial controls meeting accepted professional standards, and shall make those records available for audit by CAL FIRE or its designee, should suffice.
- The Agreement should be properly processed through the CAL FIRE Contracts Office.

Law Enforcement Program Response:

Law Enforcement staff agrees that clarity is needed as to CDAA's role as either trustee or asset holder with limits on asset rights subject to the terms of the Agreement. And staff agrees with the suggested revisions regarding documentation, audits, and contract approval. Staff will amend the Agreement, making it a formal trust, incorporating these revisions, and process it through the CAL FIRE Contracts Office. There are only two recommendations that may require further evaluation: Using State purchasing rules as the guidelines governing expenditures, and mandating a set formula for settlement deposits into the Fund. Each is discussed below.

Staff agrees that expenditure governance and accountability are paramount, but recommends applying legally recognized fiduciary duties as the appropriate guidelines instead of State purchasing rules. This is because federal and local fire agencies may also participate in Fund projects, the trustee charged with expenditure governance is not a state employee, and the State purchasing rules could conflict with the trustee's fiduciary and trust responsibilities.

If the trust clearly delineates expenditure and accountability guidelines that comport with legally recognized fiduciary principles, this should address any concerns regarding appropriate Fund use. And applying this standard instead of State purchasing rules shouldn't jeopardize the State's delegated purchasing authority because no State monies are involved. The monies are from defendants wishing to settle a civil case against them and the Fund deposits are not otherwise earmarked for the State's General Fund or any State Special Fund. CAL FIRE may be one of several fire agencies involved in settlement negotiations and the plaintiff(s), defendant(s), and/or the adjudicator may find that agreeing to deposit monies in a non-departmental fund designed to improve wildland fire investigation training statewide, helps expedite settlement. A few examples may help illustrate why the monies would not otherwise go to the General Fund:

- A defendant may have an insurance policy that covers the entire amount requested by CAL FIRE as the plaintiff. The defendant, however, may dispute CAL FIRE's cost-calculation and not want to concede that point. It may cost both sides more to litigate the cost-calculation than for CAL FIRE to accept a reduced amount and for the Defendant to deposit the balance of the insurance policy amount into the Fund. In this instance, the monies would have been used in the cost of the litigation and made no net difference to the General Fund if CAL FIRE prevailed, and would have resulted in a reduced recovery to the General Fund if CAL FIRE did not prevail.
- CAL FIRE and a local agency may both be seeking cost-recovery for a fire that burned on state and local lands. Suppose in this instance the cost-apportionment is very difficult to ascertain because there were other fires in the area and some of the resources were assigned to multiple incidents during the initial attack phases. Instead of paying to litigate which agency is entitled to the cost, the agencies can agree to have the defendant put the disputed amount into the Fund and recover their respective undisputed amounts from the Defendant. Again, the money deposited in the Fund would have been spent litigating the apportionment question and could have resulted in a lower recovery for the General Fund.
- There may be multiple defendants with varying levels of culpability and assets. Like the examples above, it may not be cost-effective to litigate apportionment of each against each defendant and the Fund can capture the monies that would have been used to litigate the issues. Additionally, when there are multiple defendants the Fund may be able to capture monies in excess of CAL FIRE's costs. If each defendant could be liable for the entire cost of the fire, each may be willing to settle for a reduced amount that exceeds 100% of CAL FIRE's costs, and the excess amount can be directed into the Fund since CAL FIRE cannot obtain more than 100% of its costs.
- There may be cross-over with a criminal case that precludes CAL FIRE from getting a full civil settlement, but that allows for a settlement agreement that includes a Fund deposit. Again, the monies going into the Fund would not have been recoverable into the General Fund.

These instances reflect that the Fund is not designed to supplant General Fund recoveries or divert State monies. Instead, it provides a supplemental mechanism that can capture remaining available monies that are used to help fire agencies be more successful in fire litigation, which in-turn will actually add more dollars to the General Fund in future years. Even in instances where the settlement on a specific case may have been negotiated differently so that more dollars were directed to CAL FIRE, the General Fund benefits from the settlement strategy to accept less in the short-term to obtain more in the long-term. This is an accepted litigation strategy, particularly when you have repeat offenders, which is often the case in the civil cost-recovery arena.

The above examples also help illustrate why it may not serve the intent of the Fund to include a set formula for Fund deposits in the Agreement. A strict formula mandating when deposits will be made vitiates the intent that the Fund capture monies that may not be available for the General Fund. It also may conflict with a court-ordered settlement or jury verdict. There may be some value in providing settlement parameters. CAL FIRE case managers have followed the practice of not entering into settlement agreements that involve Fund deposits when CAL FIRE is going to recover less than 80% of its requested costs. This provides some protection to the General Fund during settlement, without unduly curbing a case manager's discretion to achieve the best result they can for CAL FIRE when settling a case. Law Enforcement Staff recommends placing settlement parameters into the Civil Cost Recovery Policy.

Finding #3 – Program Procedures Need Further Development

Condition:

An interview with CAL FIRE legal counsel regarding the Fund revealed concerns regarding established policies and procedures to set-up the Fund and whether procedures are followed for project approvals. There are questions about whether Project Proposals are for proper purposes and are approved by the committee, and there is no policy that describes how and when amounts are contributed to the Fund.

When litigation results in civil cost recovery, CAL FIRE litigants structure the settlement agreement so that the party responsible writes two separate checks. One check is provided to CAL FIRE for return to the general fund, and another check is provided to CDAA for the remainder of the balance to be deposited to the Fund. Neither this process nor the calculation formula is documented in policy and procedures.

Law Enforcement states that it is general knowledge to CAL FIRE litigators how to calculate amounts to be deposited to the Fund, but it is not documented in writing. Law Enforcement could not state a minimum amount of recovery that is subject to the calculation formula for deposit into the Fund. For example, if \$1,000 was awarded in a civil cost recovery judgment, it is not clear whether any of that amount would be contributed to the Fund. In addition to the calculation formula needing to be documented, the criteria for amounts subject to the calculation formula are not documented.

Criteria:

Best Practice is an idea that asserts that there is a technique, method, process, activity, incentive, or reward that is more effective at delivering a particular outcome than any other technique, method, process, etc. The idea is that with proper processes, checks, and testing, a desired outcome can be delivered with fewer problems and unforeseen complications. Best Practice can also be defined as the most efficient (least amount of effort) and effective (best results) way of accomplishing a task, based on repeatable procedures that have proven themselves over time for large numbers of people. Best Practice is considered by some as business terminology used to describe the process of developing and following a standard way of doing things that multiple organizations can use for management, policy, and especially software systems.

Best Practice states that policies reflect the "rules" governing the implementation of a process. Procedures, on the other hand, represent an implementation of policy and should evolve over time as new tools emerge, new processes are designed, and the risks associated with an area changes in response to internal or external environmental changes. In fact, there should be an expectation that individuals will "challenge" outdated procedures and call them to the attention of their owners. As a consequence, rather than combine "policies," "procedures," and "guidelines" in a single document,

Best Practice recommends that, as a general rule, policies and procedures appear as separate documents.

Cause:

The Fund is a relatively new program and is evolving as time goes on and lessons are learned. As a result, all of the processes and procedures are not well documented. The controlling document, currently the MOU, is undergoing a revision and will strengthen program guidelines.

Effect:

When written policies and procedures are not utilized, there is no reference document to ensure uniformity on how projects are approved, how contributions to the Fund are calculated, or a reference guide for future employees to follow.

Recommendations:

CAL FIRE should develop policies and procedures for the Program as follows:

- Establish policies and procedures to set-up the Fund.
- Clarify and document the criteria for amounts subject to the calculation formula, along with the calculation formula.
- Establish and follow procedures for project approvals.
- Properly document approvals.
- Ensure that Project Proposals are for proper purposes, approved by the entire committee, and include a project number.
- Develop policies and procedures to describe how and when amounts are contributed to the Fund.
- Document the process to litigate, settle, and deposit monies into the Fund.

Law Enforcement Program Response:

Law Enforcement agrees and is in the process of implementing the recommendations.

Finding #4 – State Purchasing Guidelines Not Followed

Condition:

State purchasing guidelines were not followed for the following purchases:

- In February 2008, a training class was approved for March 2008 for Field Surveillance Training/Equipment Purchase in the amount of \$64,399. Included in the class were charges for trackers, computers, and battery packs in the amount of \$41,482. Equipment comprises over 64% of the training total.
- In September 2007, four Guardian Tracker Deluxe Kits (Cellular Based GPS Vehicle Trackers) were purchased for \$26,950.
- In December 2006, a training class was approved for Winter/Spring 2007 for Fire Scene Documentation Training in the amount of \$202,338. Included in the class were charges for digital cameras, diagramming software, and photogrammetry software in the amount of \$170,238. Equipment comprises over 84% of the training total.

Criteria

CAL FIRE Material Management Handbook Section 2603.1 states that the statutory authority for purchasing non-information technology (non-IT) goods and information technology (IT) goods and services for State government resides with the Department of General Services (DGS). DGS also has statutory authority to grant purchasing authority to those departments demonstrating the capability to make purchases that adhere to State statutes, regulations, executive orders, policies, procedures, sound business practices, and cost effectiveness and that are in the best interest of the State.

CAL FIRE Material Management Handbook Section 2603.3 states there are two types of purchasing authority available to State departments; non-information technology and information technology. In CAL FIRE the Information Technology Section (ITS) is responsible for granting purchasing authority for all Information Technology commodities and services. (ITS can be contacted for questions regarding those types of purchases.)

CAL FIRE procurement rules for the purchase of IT Goods require the completion and approval of a Purchase Request and Justification (ITS-004) form approved by the Field IT Coordinator, Unit Manager, Information Security Officer, and Chief Information Officer.

SAM Section 5230 states that uniform standards are applicable to acquisitions of IT goods and/or services pursuant to Public Contract Code section 12100 et seq., regardless of dollar amount, type of IT goods/services, and acquisition approach. The standards shall apply throughout the IT procurement process.

SAM Section 8601 states that generally, property refers to all assets used in governmental operations. Property that is capitalized is referred to as property, plant, and equipment. Property includes land, buildings, improvements, machinery, furniture, tools, etc., and intangibles. Section 8602 further states that State property is capitalized for accounting purposes when certain conditions are met. Capitalization means to record the property in the accounting records as assets. Tangible property must meet the following three requirements in order to meet the capitalization requirements: have a normal useful life of at least one year; have a unit acquisition cost of at least \$5,000; and, be used to conduct State business.

SAM Section 8650 states that departments will record the following information when property is acquired: date acquired, property description, property identification number, cost or other basis of valuation, owner fund, and, rate of depreciation, if applicable. Departments will keep track of state property, whether capitalized or not, in an automated property accounting system or on a Property Record Cards form, STD 153-A. The property information for each item of property constitutes the property register. It shall include both capitalized and non-capitalized property. Section 8651 further states that all property will be tagged after acquisition. This includes property which does not meet all of the State's capitalization requirements.

Cause:

The CAL FIRE Law Enforcement Administrative Fund Representative did not ensure that IT purchases were properly approved, capitalized, and recorded.

Effect

CAL FIRE's purchasing authority may be withdrawn from DGS if the Department does not demonstrate the capability to make purchases that adhere to State statutes, regulations, executive orders, policies, procedures, sound business practices, and cost effectiveness and that are in the best interest of the State.

Recommendations:

Law Enforcement staff should follow all State and departmental policies and guidelines when purchasing property. IT purchases should be properly approved, and equipment should be properly recorded, capitalized, and tagged.

Law Enforcement Program Response:

Law Enforcement staff agrees that equipment provided as part of training needs to be properly acquired and tracked. In keeping with the recommendations discussed in Finding #3, staff recommends that the Agreement be converted to a formal trust that clearly identifies equipment ownership rights and responsibilities. When the trust retains asset ownership, then the trustee will need to comply with legally recognized fiduciary principles regarding asset management. If the State wishes to purchase

equipment from the trust to convert the equipment to a State asset, staff must follow all applicable State purchasing, property and inventory policies and guidelines.

Finding #5 – Travel Expense Claims Not Properly Completed

Condition:

Travel Expense Claims (TEC) submitted by employees who attended training were not properly completed. Specifically:

- On several occasions employees did not record normal work hours in Box 12 of the TEC.
- None of the TECs for conferences had Box 17 – Signature and Title of Authority for Special Expenses signed.
- On several occasions subtotals were either not recorded or inaccurately recorded on the TEC.

Criteria:

CAL FIRE Accounting Procedures Handbook Section 3691.1 states that Box 12 must be completed to determine meal eligibility and overtime call back mileage entitlement. CAL FIRE Travel Handbook page 3781-13 states to enter the beginning and ending normal work hours using the 24-hour clock in Box 12.

CAL FIRE Accounting Procedures Handbook Section 3691.1 further states that Box 17 must be signed when claiming conference and convention expenses and that sub-totals are to be completed. TEC instructions state to enter subtotals or totals.

SAM Section 0724 states that Travel Expense Claims that contain expenses incurred due to a conference, convention, or similar meeting must be countersigned by the agency head, or the deputy whose name has been forwarded to the Audits Division of the State Controller's Office under the following circumstances: when two or more agents, officers, or employees attend the same convention, or conference, or when the registration fee exceeds \$50.

Cause:

Instructors usually go over the proper completion of the TEC with students on the last day of training. In these instances, instructors apparently did not advise students to complete the appropriate sections, and the officer approving travel and payment did not review these sections for proper completion.

Effect:

When normal work hours are not recorded, it is difficult to determine whether meals and/or overtime are correctly claimed. When Box 17 of the TEC is not signed, the expenditures appear to be unapproved.

Recommendation:

Officers approving travel and payment should ensure that TECs are complete, accurate and properly approved prior to submission to CDAA for reimbursement.

Law Enforcement Program Response:

Law Enforcement staff agrees that travel reimbursement claims need to be complete and accurate. If the Agreement is converted to a formal trust as discussed in Finding #3, all travel reimbursement claims against the trust will need to comply with procedures established by the trust or the trustee in keeping with legally recognized fiduciary principles. Law Enforcement can recommend use of the State Travel Expense Claim Form. Staff agrees that all reimbursement claims from State employees need to be submitted through the appropriate chain-of-command for approval.

Finding #6 – State Was Overcharged For Lodging

Condition:

A Visalia Marriott invoice for the time period of 9/30/07 – 10/5/07 showed two employees being charged twice for a room on the same night. Additionally, there was a miscellaneous adjustment credit and then a miscellaneous charge for the same amount without any explanation.

A Best Western invoice for the time period 4/23/07 – 4/24/07 simply stated 6 rooms for one night and 14 rooms for the next. The invoice does not indicate room numbers or employee names, and a sign-in sheet was not completed for the rooms.

Criteria:

California Government Code Section 13403(a)(3) states that elements of a satisfactory system of internal accounting and administrative control shall include a system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

CAL FIRE Incident Fiscal Management Handbook Section 3847.2 states that when utilizing motels a CAL FIRE-93 and an AO-341 (roster) are required. We realize this section addresses emergency incidents, but we believe the concept to be applicable in cases where block rooms are paid for and employees or rooms are not identified on the invoice.

Cause:

The CAL FIRE Law Enforcement Administrative Fund Representative did not review motel invoices for accuracy or supporting documentation. Lodging was paid for in advance and a reconciliation of the amount paid and the amount used did not occur after the expenses were incurred.

Effect:

CAL FIRE was overcharged for two rooms in the amount of \$184.80, and a credit in the amount of \$35.05 was deleted without explanation.

When a lodging invoice is vague and not detailed, it is difficult to determine whether lodging was actually utilized by trainees or if duplicate charges exist.

Recommendations:

The CAL FIRE Law Enforcement Administrative Fund Representative should review motel invoices for accuracy and supporting documentation. When a block of rooms is reserved, the person reserving the rooms should use a sign-in sheet and make sure the

invoice for the rooms matches the sign-in sheet. Furthermore, when lodging is prepaid, a reconciliation of the amount paid and the amount used should occur after expenses are incurred, and any discrepancies should be clearly explained.

Law Enforcement Program Response:

Law Enforcement staff agrees that detailed accountability and reconciliation is appropriate for all expenditures made on behalf of CAL FIRE employees. If the Agreement is converted to a formal trust as discussed in Finding #3, the trust will need to comply with procedures established by the trust or the trustee in keeping with legally recognized fiduciary principles, but CAL FIRE may also set-up reconciliation procedures to ensure accuracy of all Fund expenditures involving CAL FIRE employees.

Finding #7 – Training Records Not Properly Maintained

Condition:

The Law Enforcement Program has not maintained training records of employees utilizing training that is paid by the Fund. Some of the Fund was used for trainee membership dues; however, records were not maintained detailing whom the memberships were for or when the memberships expired.

Criteria:

CAL FIRE Training Handbook Section 4051.1 states that documentation of training is an integral part of the CAL FIRE training system and is required by State policy. An accurate and readily available record assists the Unit Manager and Training Officer in planning and scheduling future training and in making assignments. Section 4051.2 states that training records will be maintained at the reporting unit level, e.g., the Administrative Unit, Regional Office, Sacramento Headquarters Programs, and Nurseries.

CAL FIRE Training Handbook Section 4062.1 states that to receive reimbursement for training, the training must: (1) "be of direct value to the State," (2) "be relevant to the employee's career development in State service," and (3) "be cost effective" (Government Code Section 19995.1).

California Government Code Section 13403(a)(3) states that elements of a satisfactory system of internal accounting and administrative control shall include a system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

Cause:

The CAL FIRE Law Enforcement Administrative Fund Representative did not ensure that accurate and readily available training records were maintained by the Law Enforcement Program in Sacramento.

Effect:

Without accurate and readily available training records on file, the Law Enforcement Program will not be able to verify whether membership dues have already been paid for an employee or when the membership dues expire. Nor will the program be able to validate trainees' records and qualifications. Thus, the potential exists for CAL FIRE to expend funds unnecessarily for training that employees have already attended.

Recommendations:

The CAL FIRE Law Enforcement Administrative Fund Representative should ensure that accurate and readily available training records are maintained by the Law Enforcement Program in Sacramento, even if training records are already kept at the region or unit level.

Law Enforcement Program Response:

Law Enforcement agrees in part and disagrees in part. Training is a decentralized function delegated to the Units and Regions for personnel accountability purposes. Requiring Sacramento Law Enforcement staff to duplicate these efforts is unnecessary and redundant. However, all CDAA Project information should be retained at a centralized site in Sacramento. The Agreement should be amended to require a central repository for all proposed and approved projects and for records provided to CAL FIRE from CDAA.

Finding #8 – Out-of-State Travel Not Approved

Condition:

Some of the training set up under the Fund has occurred out-of-state. In the following instances, the out-of-state travel had neither an advance blanket out-of-state approval nor an individual trip approval from the Agency Secretary, the Department of Finance, and the Governor's Office as required.

- Three employees attended FI-310 Case Development training in Boise, Idaho, in March 2006.
- Five employees attended a Power Line Wildland Fire Conference in Reno, Nevada, in March 2007.
- Nineteen employees attended FI-310 Case Development training in Reno, Nevada, in December 2007.
- Two employees attended FI-310 Case Development training in Missoula, Montana, in March 2008.

Criteria:

CAL FIRE Budget Procedures Handbook Section 3560.1 states that each year CAL FIRE requests blanket approval for out-of-state travel. The blanket provides for all out-of-state travel for the fiscal year which has been approved by the agency secretary, the Department of Finance, and the Governor's office. Units must submit the blanket request on STD 257C to their region or headquarters administrative office, which in turn must submit the requests they support to the Budget Office by the second week of May.

CAL FIRE Training Procedures Handbook Section 4065.1.1 states that out-of-state travel, conferences, conventions, and training must have Director's office approval.

SAM Section 760 states that there are two ways to obtain approval for out-of-state travel: advance blanket approval and individual trip approval. Section 762 describes the blanket approval process, and section 764 describes individual trip approval.

California Government Code Section 11032 states that any officer or employee of any state agency may confer with other persons, associations, or organizations outside of the state whenever it may be of assistance in the conduct of state business. Actual and necessary expenses for travel outside of the state as authorized by this section shall be allowed when approved by the Governor. This section shall not apply to employees of any legislative committee or to the Legislative Counsel or his or her employees.

Cause:

The CAL FIRE Law Enforcement Administrative Fund Representative did not ensure that either an advance blanket approval or an individual trip approval was properly obtained prior to travel.

Effect:

The Department's ability to authorize and conduct out-of-state travel could be jeopardized if proper prior approval is not obtained for all employees who travel out-of-state.

Recommendation:

All out-of-state travel must be requested and approved in advance by the appropriate authority according to policy.

Law Enforcement Program Response:

Law Enforcement agrees that all CAL FIRE employees must adhere to State policies and procedures for out-of-state travel. In these instances, all out-of-state travel was eventually approved, but there was a procedural problem in that not enough out-of-state travel days were allocated and some staff had days allocated through the Region Law Enforcement Program and some through the Office of the State Fire Marshal (OSFM). Law Enforcement recommends that all out-of-state travel paid for by the Fund be allocated through the OSFM, and that the OSFM allocate a sufficient number of trips per year to cover the training.

In summary the Law Enforcement Program made the following statement:

Staff recommends: (1) adding the requirement that any settlement monies directed to improve wildland fire investigation and case management be deposited in a formal trust account, (2) amending the Agreement with CDAA to incorporate the other accountability measures discussed above, (3) establishing CAL FIRE policy and procedures for civil cost-recovery, Fund use, and training allocations as discussed above.

Discussion Item #1 – Consider Assigning Wildland Fire Investigation Training and Equipment Fund to Both Regions

During the course of this audit, we interviewed representatives from both regions about the Wildland Fire Investigation Training and Equipment Fund (Fund), and during those interviews we heard suggestions that the Fund be divided into two Funds, one for each region. In such a scenario, the Fund balance would be derived from each region's civil cost recovery amounts.

Each region's training classes would be available statewide; however, each region would decide which training classes to support and which instructor would teach the class. Each region would control its own Fund, have its own approval committee, and arrange for instructors and facilities for the class.

Philosophical differences between the regions exist as to who should attend the classes, who should teach the classes, and how the money should be spent.

Sacramento Headquarters is opposed to this idea of separate Wildland Fire Investigation Training and Equipment Funds for each region.